

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2298**

Introduced by

Senators Kilzer, Carlisle

Representatives Hawken, Karls

1 A BILL for an Act to amend and reenact section 65-05-08.3 of the North Dakota Century Code,
2 relating to workers' compensation consideration of treating doctor's opinions; and to provide for
3 application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 65-05-08.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **65-05-08.3. Treating doctor's opinion.**

8 1. ~~If the organization does not give~~A presumption may not be established in favor of an
9 ~~injured employee's treating doctor's opinion controlling weight, the organization shall~~
10 ~~establish that the treating doctor's opinion is not well supported by medically-~~
11 ~~acceptable clinical and laboratory diagnostic techniques or is inconsistent with the~~
12 ~~other substantial evidence in the injured employee's record based on one or more of.~~
13 The organization shall resolve conflicting medical opinions and in doing so the
14 organization may consider the following factors:

- 15 a. The length of the treatment relationship and the frequency of examinations;
- 16 b. The nature and extent of the treatment relationship;
- 17 c. The amount of relevant evidence in support of the opinion;
- 18 d. How consistent the opinion is with the record as a whole;
- 19 e. Appearance of bias;
- 20 f. Whether the doctor specializes in the medical issues related to the opinion; and
- 21 g. Other relevant factors.

22 2. This section does not apply to managed care programs under section 65-02-20. For
23 purposes of this section, the organization shall determine whether a doctor is an
24 injured employee's treating doctor.

1 **SECTION 2. APPLICATION.** This Act applies to administrative hearings conducted on and
2 after the effective date of this Act.